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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,455	10/06/2006	Wilfried Rahse	H6244PCT/US (13744-00018-	7178
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EXAMINER ASDJODI, MOHAMMAD REZA				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/589,455

Applicant(s)

RAHSE, WILFRIED

Examiner

Asdjodi M. Reza

Art Unit~~4134~~ 7796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 58-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 58-81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All. b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/14/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 58-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wevers et al. (US 4,559,169) in view of Conrad et al. (US 2004/0117919 A1).

Regarding claims 58- 59, Wevers et al. teaches a stable detergent composition as microemulsion; [C.22, L.30], comprising an oil; [C.6, L.25-35], a hydrophilic and lipophilic emulsifier; [C.3, L.25-30], contacting and rinsing a fabric; [abst. , C.1 L.25-30, & C.12, L.58].

Wavers et al. do not, explicitly, mention the use of automatic washing machine in a method comprising the components of instant claim. However, Conrad et al. teach a method of treating and rinsing fabric with an automatic washing machine; [abst. & ¶.0041, ¶. 0178]. Wavers et al. and Conrad et al, are analogous (or combinable) art because they are from the same field of endeavour, that of compositions for methods of fabric treatment. At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the microemulsion composition of Wavers et al. with Conrad et al.'s washing method. The motivation would have been to utilize the

advantages of automatic washing machine in treating a fabric with a microemulsion composition.

Regarding claim 60, Wevers et al. teach a microemulsion system.

Wevers et al do not specifically teach droplet size of microemulsion particles.

None the less for a droplet system to be considered a microemulsion, it is required that the droplet sizes are in the range of 5 to 100nm.

Regarding claims 61-63, Wevers et al. disclose a microemulsion composition comprising a cationic polymer; [C.3. L.3], with the amount of about 2%; [C.2, L.4-7], wherein the aforementioned cationic polymer comprises a polymeric quaternary ammonium compound; [C.3. L.3 & C.3, L.45-65].

Regarding claims 64-65, Wevers et al. disclose presence of sequestering agents such as polycarboxylates and citric acid; [C.6, L.50-55].

Regarding claims 66-67, Wevers et al. teach a lipophilic emulsifier system comprising a cationic emulsifier; [C.3, L.3 & C.7, Exm.1].

Regarding claim 68, Wevers et al. disclose a cationic emulsion comprising a quaternary ammonium compound; [C.3, L.45-65].

Regarding claim 69, Wevers et al. teach an emulsifier system comprising a non-ionic emulsifier; [C.24, L.1-5].

Regarding claim 70, Wevers et al. teach a hydrophilic emulsifier comprising a non-ionic emulsifier; [C.3, L.25-40].

Regarding claim 71, Wevers et al. teach presence of an oil with the amount of 10 to 30%; [C.6, L.35-42]. Regarding the ranges, in the case where the claimed ranges

overlap or lie inside ranges disclosed by the prior art, a prima facie case of obviousness exists. *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed Cir.1990).

Regarding claim 72, Wevers et al. teach every limitation of instant claim, as applied to claim 58, except the thickener agent. However, Conrad et al. teach a microemulsion comprising ingredients such as fabric softener and thickener; [¶.0146]. At the time of invention, it would have been obvious to a person of ordinary skill in the art to add the thickener of Conrad et al.'s washing method to microemulsion composition of Wevers et al. with the motivation of enhancing viscosity and stability of fabric treating microemulsion composition.

Regarding claim 73, Wevers et al teach the pH of microemulsion as being adjusted to 6.6; [C.22, L.55].

The experimental modification of this prior art in order to ascertain optimum operating conditions fails to render applicants' claims patentable in the absence of unexpected results. *In re Aller*, 105 USPQ 233. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to optimize the value of pH in order to control the performance of the method of treating substrate by microemulsion composition. Motivation would have been to improve the cleaning activity of microemulsion in a more favorable chemical condition. A prima facie case of obviousness may be rebutted, however, where the results of the optimizing variable, which is known to be result-effective, are unexpectedly good. *In re Boesch and Slaney*, 205 USPQ 215.

Regarding claim 74, Wevers disclose the presence of citric acid. Citric acid is an acidic buffer compound; [C.6, L.50-55].

Regarding claims 75 and 76, Wevers et al. teach every limitation of instant claims except the viscosity and density of microemulsion. The Office realizes that all the claimed effects or physical properties, such as viscosity and density, are not positively stated by the reference. However, the reference teaches all of the claimed reagents. Therefore, the claimed effects and physical properties (viscosity and density) would implicitly be achieved by a composition with all the claimed ingredients. If it is the applicant's position that this would not be the case: (1) evidence would need to be presented to support applicant's position; and (2) it would be the Office's position that the application contains inadequate disclosure that there is no teaching as to how to obtain the claimed properties and effects with only the claimed ingredients.

Claims 77-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wevers et al. (US 4,559,169) in view of Conrad et al. (US 2004/0117919 A1).

Regarding claim 77, Wevers et al, teach a microemulsion; [C.22, L.30], comprising an oil; [C.2, L.45 & C.6, L.25-35], an emulsifier system with hydrophilic and lipophilic emulsifiers; [C.3, L.25-30], wherein micro emulsion droplet sizes are in the range of 5 to 100 nm.

Wevers et al does not teach an antioxidant in their microemulsion composition. However, Conrad et al. teach a microemulsion system comprising antioxidant; [¶.0146]. Wevers et al. and Conrad et al, are analogous (or combinable) art because they are

from the same field of endeavour, that of compositions for methods of fabric treatment. At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the microemulsion composition of Wavers et al. with Conrad et al.'s antioxidant. The motivation would have been to increase stability and lifetime of fabric treatment composition.

Regarding claims 78-81, Wevers et al. disclose a microemulsion composition comprising; lipophilic emulsifier with cationic emulsifier; [C.3, L.3 & C.7, Exm.1], a hydrophilic emulsifier with non-ionic emulsifier; [C.3, L.25-40], a cationic polymer; [C.3, L.3], and an acidic buffer; [C.6, L.50-55].

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Reza Asdjodi whose telephone number is 571-270-3295. The examiner can normally be reached on Monday-Friday 8:00-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Mark Eashoo can be reached on 571-272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

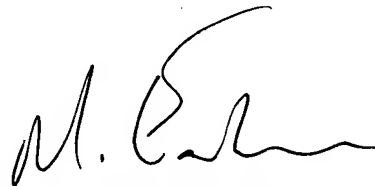
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M. Reza Asdjodi
10/14/07



MARK EASHOO, PH.D.
SUPERVISORY PATENT EXAMINER

11/24/07